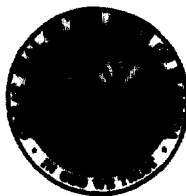


STATE OF FLORIDA

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.



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GENERAL COUNSEL  
ROBERT D. VANDIVER  
(850) 413-6248

**Public Service Commission**

May 28, 1998

**BY AIR BORNE EXPRESS**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

Re: CC Docket 96-45 and 97-160 and DA 98-715 - Federal-State Joint Board on  
Universal Service

Dear Ms. Salas:

Enclosed are an original and 6 copies of the Reply Comments of the Florida Public Service Commission in the above docket. Please date stamp and return one copy in the enclosed self-addressed envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cynthia B. Miller".

Cynthia B. Miller  
Senior Attorney

CBM:jmb

cc: International Transcription Service  
Parties of Record

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON D.C. 20554**

DOCKET FILE COPY ORIGINAL

In the Matter of: )

Federal-State Joint Board )  
on Universal Service. )

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CC DOCKET 96-45  
and 97-160  
DA 98-715

RECEIVED  
MAY 28 1998  
FCC MAIL ROOM

**REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION  
ON PROPOSALS TO REVISE THE METHODOLOGY FOR  
DETERMINING UNIVERSAL SERVICE SUPPORT**

On April 15, 1998, the FCC issued a Public Notice seeking alternative proposals for determining universal service support for non-rural carriers. The FCC also sought comment on any existing alternative proposals. The Florida Public Service Commission (FPSC) commends the FCC for seeking alternatives to its problematic "75/25" solution proposed in its earlier orders. The FPSC is pleased to provide these comments on certain universal service support proposals.

**AT&T Proposal to Delay Implementation of  
New Universal Service System**

The FPSC believes that AT&T's proposal to delay implementation, in principle, is appropriate and should be adopted. AT&T's rationale for this proposal is as follows:

The FCC's high cost support mechanism was based on the fundamental premise that robust local competition, and the substantial erosion of the most profitable of the incumbent LEC's customer base, would necessitate a system of explicit support to maintain affordable local rates. . . .

Accordingly, AT&T now urges the Commission to delay the transition to the cost proxy methodology for

determining high cost support for the major LECs, which is scheduled to begin January 1, 1999, at the very least until these companies have opened their markets to robust and widespread local competition.<sup>1</sup>

The FPSC believes that, whether or not the incumbent LECs have been aggressive in opening up their markets to local competition, such competition has not yet developed. Local competition in Florida to date has not inhibited any non-rural local exchange company's ability to provide service in high cost areas. Local competition in Florida has not yet developed to the point where a significant percentage of our population has a choice for local telephone service, nor have competitors penetrated any local market to any degree of statistical significance. This absence of vigorous, widespread local competition mitigates the need for a rapid transition to a proxy-based universal service mechanism on January 1, 1999.

Another purpose of a new federal high cost support mechanism would be to encourage entrants to provide service in high cost areas by making an appropriate level of support available to them as well as to incumbent LECs. Again, competition has not developed to the point where this is imminently necessary. To date, the FPSC has received no requests from CLECs to be designated as Eligible Telecommunications Carriers, which is

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<sup>1</sup> AT&T witness Joel Lubin at the FCC *en banc* hearing on universal service, March 6, 1998.

necessary for receipt of federal support under the FCC's May 8, 1997 Order.

We believe work must continue past January 1, 1999 to ensure a new universal service mechanism is needed, and that it accurately targets an appropriate amount of high cost funds. As previously stated, the FCC's 75/25 proposal is fraught with problems, and we hope that proposals submitted as alternatives to the FCC's plan will provide a basis for a permanent universal service funding mechanism. We also believe that issues related to the allocation and distribution of funds still need to be addressed, and the current proceeding should lead to a resolution of such issues. Finally, there are still problems with the proxy models, and it seems highly unlikely that they could be ready for implementation by January 1, 1999. We do, however, believe that work should continue so that a model can be selected and implemented as soon as feasible.

Also, if a proxy-based mechanism is implemented now, it is highly likely that the size of the present high cost fund will increase substantially (all estimates of proxy-based mechanisms to date have resulted in fund sizes larger than the present system). Ensuring revenue- and competitive neutrality becomes more problematic as the size of the fund increases. This problem will likely be exacerbated by a flawed proxy model. For these

reasons, the FPSC urges caution and sees no reason to fundamentally change the basis for high cost support.

The FPSC disagrees with AT&T regarding the present level of support for the largest LECs. While AT&T proposes to eliminate \$114 million in support for these LECs, the FPSC proposes that the current system of high cost support should remain in place, for all LECs, until the permanent mechanism is completely developed and its implementation is warranted. During this period, work should continue on alternative methods for universal service support, so a new mechanism can be quickly implemented once needed. The FPSC believes that the evaluation conducted by the FCC should include factors such as market penetration by CLECs, requests for funding as ETCs by CLECs, and other elements related to the existence and tenacity of local competition in America.

The FPSC concedes that the existing high cost mechanism is less than optimal and some modifications might be appropriate during this period. Accordingly, we suggest the FCC seek comment on what changes would be warranted for the interim. For example, the current funding limitation on LECs with greater than 200,000 access lines in a study area, an issue for some rural states, could be reexamined.

### **Time Warner Proposal**

The FPSC recognizes that providing universal service support to very high-income areas may not be appropriate. However, the FPSC has not analyzed Time Warner's proposal to ensure that it would be fair and feasible. We request the FCC to seek comment on a fair and reasonable method to segregate high income areas for universal service support purposes.

### **US West, GTE, Colorado PUC Staff, and South Dakota PUC Variable Benchmark and Variable Support Proposals**

These proposals appear to be conceptually similar, all dealing with variations on the FCC's 75/25 proposal, with adjustments to support levels and/or benchmarks to regulate the size of the high cost fund. The FPSC and others have previously commented that the 75/25 proposal is fraught with problems.<sup>2</sup> These proposals seem to be in a relatively premature stage of development, and should be further investigated. Each has its advantages, such as US West's relative simplicity, and each its drawbacks (the US West proposal might also generate a fund size that is untenable). The FPSC urges the FCC to investigate these proposals in depth during the period that the existing fund would remain in place.

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<sup>2</sup> See FPSC *Petition for Reconsideration* filed July 17, 1997. The points regarding the 75/25 proposal were withdrawn on August 6, 1997, in view of the court challenge. Also see the State Petitioners brief filed February 20, 1997, in the case, Texas Office of Public Counsel v. FCC (Fifth Circuit Court of Appeals, 1997).

### **Ad Hoc Proposal**

The Ad Hoc proposal has several problems associated with it. While the effort that went into the proposal is admirable, the FPSC believes it should not be adopted. The following points are some of the Ad Hoc proposal's shortcomings.

First, the proposal endorses comparing statewide average costs to nationwide average costs before determining a need for funding. This approach completely eliminates the concept of targeting funds to specific areas where they are needed. In fact, once averaging is done at the statewide level, the size of the high cost fund begins to appear remarkably similar (yet more complicated) than the existing system. This element alone argues for simply retaining the current mechanism, and perhaps granting waivers of some current rules for individual states that can demonstrate the need for more funds under the current system.

Second, using an incumbent's existing costs, or embedded costs, may not result in a mechanism that is competitively neutral. Competitive neutrality is a critical element in any permanent universal service mechanism.

Third, the initial funding step is to determine cost based on the lesser of forward-looking or embedded cost. This process cannot ensure the sufficiency of the support to a state or given area. This appears to be included solely to minimize the size of the fund, an argument raised by some large "net payer" states.

Fourth, after the first step, a two-stage, "hold harmless" provision is implemented. Net recipient states would be held harmless, receiving at least as much high cost funds as they are now receiving. Certain net payer states would be held harmless by not paying more prospectively than they are today. The FPSC does not believe that implementing a new universal service funding mechanism can accurately target resources if we must begin by keeping each individual state "whole" regarding its present level of contributions and receipts.

The FPSC believes that the end result of the Ad Hoc proposal is a more complicated, less competitively neutral version of the existing high cost mechanism. The Ad Hoc proposal would be better served by simply proposing reasonable changes to the current system regarding the 200,000 access line limit and Dial Equipment Minutes (DEM) weighting support, rather than its present myriad of elements. The FPSC looks forward to working with the FCC and the Ad Hoc proponents to develop a workable solution.

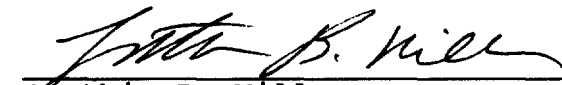
#### **Summary**

The FPSC believes that there is no need to roll out on January 1, 1999 what might be a problematic solution for a problem that does not exist. The existing high cost mechanism, with possibly some alteration, could be utilized while work



continues on proxy models and the alternative variations on the  
FCC's 75/25 proposal.

Respectfully submitted,

  
Cynthia B. Miller  
Senior Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(904) 413-6082


DATED: May 28, 1998

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON D.C. 20554

In the Matter of:	)	
	)	CC DOCKET 96-45
Federal-State Joint Board	)	and 97-160
on Universal Service.	)	DA 98-715
_____	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 28<sup>th</sup> day of May, 1998, a true and correct copy of the foregoing Florida Public Service Commission's Reply Comments on Proposals to Revise the Methodology for Determining Universal Service Support were furnished by U.S. Mail to all parties on the official mailing list previously used in this docket.

  
\_\_\_\_\_  
Cynthia B. Miller  
Senior Attorney